

work if an extension has not been negotiated. Any unresolved dispute will be processed in accordance with the Contract Disputes Act of 1978, 41 U.S.C. 601, *et seq.*

§ 1000.252 Do all provisions of other subparts apply to construction portions of AFAs?

Yes, all provisions of other subparts apply to construction portions of AFAs unless those provisions are inconsistent with this subpart.

§ 1000.253 When a Tribe withdraws from a Consortium, is the Secretary required to award to the withdrawing Tribe a portion of funds associated with a construction project if the withdrawing Tribe so requests?

Under § 1000.35 of this part, a Tribe may withdraw from a Consortium and request its portion of a construction project's funds. The Secretary may decide not to award these funds if the award will affect the Consortium's ability to complete a non-severable phase of the project within available funding. An example of a non-severable phase of a project would be the construction of a single building serving all members of the Consortium. An example of a severable phase of a project would be the funding for a road in one village where the Consortium would be able to complete the roads in the other villages that were part of the project approved initially in the AFA. The Secretary's decision under this section may be appealed under subpart R of this part.

§ 1000.254 May a Tribe/Consortium re-allocate funds from a construction program to a non-construction program?

No, a Tribe/Consortium may not re-allocate funds from a construction program to a non-construction program unless otherwise provided under the relevant appropriation acts.

§ 1000.255 May a Tribe/Consortium re-allocate funds among construction programs?

Yes, a Tribe/Consortium may reallocate funds among construction programs if permitted by appropriation

law or if approved in advance by the Secretary.

§ 1000.256 Must the Secretary retain project funds to ensure proper health and safety standards in construction projects?

Yes, the Secretary must retain project funds to ensure proper health and safety standards in construction projects. Examples of purposes for which bureaus may retain funds include:

(a) Determining or approving appropriate construction standards to be used in AFAs;

(b) Verifying that there is an adequate Tribal inspection system utilizing licensed professionals;

(c) Providing for sufficient monitoring of design and construction by the Secretary; and

(d) Requiring corrective action during performance when appropriate.

Subpart L—Federal Tort Claims

§ 1000.270 What does this subpart cover?

This subpart explains the applicability of the Federal Tort Claims Act (FTCA). This section covers:

(a) Coverage of claims arising out of the performance of functions under Self-Governance AFA's; and

(b) Procedures for filing claims under FTCA.

§ 1000.271 What other statutes and regulations apply to FTCA coverage?

A number of other statutes and regulations apply to FTCA coverage, including the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401, 2671–2680) and related Department of Justice regulations in 28 CFR part 14.

§ 1000.272 Do Tribes/Consortia need to be aware of areas which FTCA does not cover?

Yes, there are claims against Self-Governance Tribes/Consortia which are not covered by FTCA, claims which may not be pursued under FTCA, and remedies that are excluded by FTCA. The following general guidance is not intended as a definitive description of coverage, which is subject to review by